

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-2(c)

Law Offices of Mark W. Ford, LLC
4 ½ North Broadway, PO Box 110
Gloucester City, NJ 08030
856-456-8811/856-456-8558 (Fax)
Attorney for the debtor

In Re:

Rodney Jose Kelly a/k/a/ Rodney J. Kelly a/k/a Rodney Kelly

Case Number: 19-11490

Hearing Date:

Judge: Michael B. Kaplan

Chapter: 13

Recommended Local Form: ☒ Followed ☐ Modified

DECLARATION OF, RODNEY KELLY, IN OPPOSITION TO OBJECTION TO CONFIRMATION FILED BY CARRINGTON MORTGAGE SERVICES, LLC IN THE NAME OF WELLS FARGO BANK, N.A., AS TRUSTEE FOR CARRINGTON MORTGAGE LOAN TRUST, SERIES 2006-FRE1 ASSET-BACKED PASS-THROUGH CERTIFICATES

Rodney Kelly, of full age, owner of 9 Spindletop Lane Willingboro, NJ 08046, submits debtor's opposition to the objection filed in this matter on March 13, 2019 by KML Law Group, P.C. ("KML") as attorney for Wells Fargo Bank, N.A., as Trustee for Carrington Mortgage Loan Trust, Series 2006-FRE1 Asset-Backed Pass-Through Certificates ("WFB as Trustee for CMLT 2006-FRE1") to confirmation of debtor's Chapter 13 Plan (Doc. 45), for the following reasons:

1. On February 25, 2019, debtor filed Form 106D – Creditors Who Have Claims Secured by Property, wherein at Line 2.1 and Line 2.2, debtor designated FGC Commercial Mortgage Finance ("FGC") as the secured creditor as it pertains to an "80/20" purchase note and mortgage instruments dated March 17, 2006 (Doc 27). The "80/20" purchase note and mortgage instruments are hereby collectively referred to as the "1st mortgage loan" and "2nd mortgage loan", respectively.

2006 and designated by debtor at Line 2.1 and 2.2 in Form 106D remained unassigned to any party while Mortgage Electronic Registration Systems, Inc. ("MERS") located P.O. Box 2026, Flint, Michigan as the purported nominee for FGC remained the alleged "mortgagee" for the 1st mortgage loan and 2nd mortgage loan in dispute.

6. Hence, for the foregoing facts set forth above in ¶¶1-5 and re-stated herein as though fully incorporated by reference, the debtor did not designate WFB as Trustee for CMLT 2006-FRE1 or any other party as the secured creditor for the 1st mortgage loan and 2nd mortgage loan designated in Line 2.1 and Line 2.2 of Form 106D filed in this matter on February 25, 2019 (Doc. 27). Furthermore, debtor avers that his not designating FGC as debtor's secured creditor in this matter is appropriate and justifiable by law because WFB as Trustee for CMLT 2006-FRE1 has never forwarded a "*Notice of Sale / Transfer*" communication to debtor as required by and in accordance with 15 U.S.C. § 1641(g)- Notice of new creditor.

7. Accordingly, for the foregoing reasons set forth above in ¶¶1-6 and re-stated herein as though fully incorporated by reference, along with other pertinent facts and controlling law which debtor will elaborate upon when required, debtor's Chapter 13 plan filed on March 11, 2019 (Doc. 43) is feasible and complies with 11 U.S.C. §1322 and 11 U.S.C. §1325 because WFB as Trustee for CMLT 2006-FRE1 is not a proper party to claim secured creditor status and a right to repayment as it pertains to either of the two mortgage loans listed at Line 2.1 and Line 2.2 of Form 106D (Doc. 27).

8. The claims bar date is April 4, 2019, and as of present date, no party has filed a proof of claim for the mortgage loans listed in Line 2.1 and Line 2.2 of Form 106D.

9. Wherefore, for the foregoing reasons, debtor opposes WFB as Trustee for CMLT 2006-FRE1's objection to confirmation of debtor's plan, and rejects any assertion WFB as Trustee for CMLT 2006-FRE1 is a secured creditor with a perfected interest to enforce the 1st mortgage loan and or 2nd mortgage loan listed by debtor at Line 2.1 and Line 2.2 of Form 106D.

punishment.

Dated: March 25, 2019

/s/Rodney Jose Kelly

Rodney Jose Kelly